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| 09/407,738 | 09/28/1999 | OLIVIER FONCARNIER | FR9-98-059 | 3148 |

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2143

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/407,738
Filing Date: September 28, 1999
Appellant(s): FONCARNIER, OLIVIER

Stephen J. Walder
For Appellant

EXAMINER'S ANSWER

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This is in response to the appeal brief filed 06/25/04

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct

(7) *Grouping of Claims*

The rejection of claims 1-24 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

| | | |
|----------------|-------------------|---------|
| US 6,131,118 | STUPEK Jr. et al. | 10-2000 |
| US 6,021,262 | COTE et al. | 02-2000 |
| US 6,038,542 | RUCKDASHEL | 03-2000 |
| US2002/0082892 | RAFFEL et al. | 06-2002 |

Drala software, "Event Notifier, a Pattern for Event Notification", SIGS Publications, Java Report, Vol. 3, Number 7, July 1998, pp. 1-17.

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Applicant used term not define in the specification.

Since applicant did not define phrase "profile table", and how to select a list of users from profile table, the claims' language must be given the broadest reasonable interpretation, in light of specification *In re Hyatt*, 211 F.3d 1367, 1372, USPQ2d 164, 167 (Fed. Cir. 2000). The claimed "profile table", in light of specification, implies a table for storing users' profile information, which is equivalent to Stupek's database, which also storing user profile or preference information (Stupek at Col. 5, lines 50-53).

The phrase "the list of users, wherein said users have been selected from said profile table," since applicant did not define specific manner of how the users is selected from profile table, the broadest reasonable must be given. Thus, it could be interpreted as using a conventional database filtering manner to form a list or group of uses for

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receiving alarm, for instance, selecting by name, demographic, activity, hobby, preference, information subscribing type, communication devices type, or other information, which may be included in users profile.

Examiner therefore, rejecting claim based upon the aforementioned interpretation, as follow.

Claims 1, 8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stupek, Jr. et al. (US 6,131,118).

As to claims 1, 8 and 15, Stupek discloses a flexible display of management data in programmable event driven processing system, which comprises a sever for detecting and receiving events signal from network devices and transmits the event notifications signal to the users based on the conditions defined in an associated database.

In addition, Stupek's disclosure includes, profiling in *a profile table each one of said plurality of users* [Stupek teaches, a network management server, which includes a database, i.e., profile table, which contains a numerous profiles, e.g., discovers devices, users preferences, enabled the user to specify specific event monitoring, and able to filter and select record from database (Col. 5, lines 46-67)];

Stupek further discloses the system enable user to create a group of devices using SNMP, and filtering event that could triggering event notification (Col. 5, line 47-Col. 6, line14). Such teaching implied that Stupek has readily taught a feature of selecting devices and event that associated the devices for generating event notification and send to users, which is equivalent to *transmitting said alarm message to the list of users wherein said users have been selected from said profile table*.

Furthermore, Stupek discloses *said alarm message being displayed on a screen of a workstation associated with each selected user if said workstation is on* [Stupek teaches, a management server for transmitting event notification in response to the occurrence of event and registration of listeners, i.e., client or user of device, which inherently the event notification must be present on client device, e.g., workstation (Stupek teaches Col. 1, lines 63-Col. 2, line 4), the management server enabled the user, i.e., administrator, to select a managed device, i.e., users, create device group, i.e., list of selected users, Col. 6, lines 7-15, which implied that the system capable of selecting list or group of device or user, for receiving event notification].

Stupek does not explicitly disclose *an administrator is associated with the server for selecting users list*.

Official Notice is taken (see MPEP 2144.03) that administrator processed alarm was well known in the network management system, including Stupek has readily suggested that the user can perform act as administrator, i.e., selecting list of device from database, i.e., profile table.

Thus, assigning administrator role to the user, which has readily have a capability of selecting devices from database to form a group of device, to selecting a list users from a profile table or a database would have been obvious to one of ordinary skill in the art at the time of the invention was made, that was a matter of design choice, which depends upon the applications' requirement. Because assigning administrator role onto the user would expand system application, therefore, enhancing competitiveness and marketing simplicity.

Claims 2, 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stupek, as applied to claims 1, 8 and 15 above, and further in view of Drala software.

As to claims 2, 9 and 16, Stupek discloses the invention substantially, as claimed, as described, above, including, using JAVA programming language for supporting platform independent (Col. 4, lines 58-67; Col. 6, lines 1-6). Although, Stupek does not expressly disclose the specific utility of JAVA programming, such as for being used as alarm program. However, using JAVA as alarm program (JAVA Alarm) is not novelty. Drala, in the same field of endeavor, teaches a JAVA programming for transmitting alarm messages or event notification via a network (Abstract, Collaborations, pages 5; JAVA event notification remote notification in network management system [Motivation section pg. 2], distributed alarm from distinct machine, e.g., platform independent [Distributed Event Notification, pg. 10]).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate Drala with Stupek to simplify event notification across open platform as suggested in Drala Motivation (Motivation section pg. 2).

Claims 3-4, 7, 10-11, 14, 17-18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stupek-Drala, as applied to claims 2, 9, 15 and 16.

As to claims 3, 10 and 17, Stupek-Drala discloses the invention substantially, as claimed, as described, above, but fails to disclose messages are written and manually sent.

Official Notice is taken (see MPEP 2144.03) written message and manual sent the message was old and well known in the art, for instance in a convention e-mail system, a user can compose a short message and manually sent. In fact, it was known and used before have been facilitated by automatic event-notification system.

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to back step by including the well known process of composing and sending event notification, manually. Doing so, the system would be able to fall back to manual process in case of failure of the automatic event-notification, which would enhance flexibility and reliability.

As to claims 4, 11 and 18, Stupek-Drala discloses the invention substantially as claim, above, including automatically sending event notification when the event occurred (Stupek Col. 14, lines 15-21). Stupek-Drala fails to express the sent messages is a previously written message.

Official Notice is taken (see MPEP 2144.03) sending previously written message was well-known in the art, for instance a conventional e-mail system allowed the e-mail user to compose message, such as auto reply messages and automatic send the message in response to event occurrences, e.g., in response an incoming mail.

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the concept of sending auto reply with a pre-written message, as suggested in a conventional e-mail teaching with Stupek-Drala. In doing so, would improve system's efficiency because it would eliminate repetitive tasks of the users or the administrators.

As to claim 7, 14 and 21, Stupek-Drala discloses the invention substantially as claim, above, including, generating and transmitting event notifications, e.g., alarm, using JAVA programming in SNMP environment. Stupek-Drala teaching is clearly applicable for functioning as standalone alarm, and it can detect any network event including server fault or out of work event. Even though, it does specifically discussed such that. It would have been obvious to one ordinary skill in the art that implementing Stupek-Drala teaching in a standalone or non-standalone for detecting any of server condition would have been a matter of implementation's choice, which would not produce any unexpected result.

Claims 6, 13 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stupek-Drala, as applied to claims 4, 11 and 18 above, and further in view of Cote et al (US. 6,021,262).

profiling in a profile table each one of said plurality of users (Fig. 6);

processing and transmitting means enabling an administrator associated with said server to transmit alarm message to the list of users wherein said users have been selected from said profile table, said alarm message being displayed on a screen of a workstation associated with each selected user if said workstation is running; selection means for selecting, in response to a condition or an event, a list of users based on profile information in the profile table wherein the list of users is a subset of the plurality of users (list of users fig. 5, each user profile, Fig. 6, 8, selectively notifying users in the list, Fig. 13; administrator, Fig. 5; user receiving notification via its terminal screen, paragraphs 83, 103-107, 207).

Claims 1, 8, 15, 22-24 are rejected under 35 U.S.C. § 102(e) as being anticipated by Ruckdashel et al (U.S. 6,038,542).

As to claims 1, 8, 15 and 22-24, Ruckdashel discloses a method, apparatus and program for notification users based on their profile, comprising:

a profile table each one of said plurality of users, (A server includes a scheduling database, which contains a list of users and their properties, e.g., profile table (Fig. 210);

processing and transmitting means enabling an administrator associated with said server to transmit alarm message to the list of users wherein said users have been selected from said profile table, said alarm message being displayed on a screen of a workstation associated with each selected user if said workstation is running; selection means for selecting, in response to a condition or an event, a list of users based on profile information in the profile table wherein the list of users is a subset of the plurality of users (An administrator capable of selecting users list, 303, 313, Fig. 3-4; Users capable of specifying which event to be notified, each of the users capable of specifying notification configuration, Fig. 5, 7; The server reads the users list, accesses users schedule; Fig. 8; The server sends notification to the users whose profile met the criteria, Fig. 9; also see Col. 3, lines 64-Col. 4, lines 67; Col. 6, lines 56-64,; Col. 7, lines 33-59).

As to claims 6, 13 and 20, Stupek-Drala discloses the invention substantially, as claimed, as described, but fails to express messages are automatically sent at the occurrence of an event scheduled. Cote discloses a system and method for detection and

notification in a messaging system, which included having administrator setting alarm of notification schedule (abstract; Col. 1, line 66-Col. 2, line15).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made that to incorporate scheduling event notification feature a, as suggested by cote with Stupek-Drala's teaching to allow system administrator to schedule event notification, as necessary. Because allowing administrator controlling notification schedule, system's utilization could be altered, adjusted to suit with any situation, thereby increasing system utilities and flexibilities.

Claims 1, 8, 15 and 22-24 are rejected under 35 U.S.C. § 102(e) as being anticipated by Raffel et al. (U.S. 2002/0082892).

Raffel discloses a method, program and apparatus for sale force management, which includes a plurality of profiles, list of users and selectively notify users in the list according to profile criteria are met, the system comprising:

profiling in a profile table each one of said plurality of users (Fig. 6);

processing and transmitting means enabling an administrator associated with said server to transmit alarm message to the list of users wherein said users have been selected from said profile table, said alarm message being displayed on a screen of a workstation associated with each selected user if said workstation is running; selection means for selecting, in response to a condition or an event, a list of users based on profile information in the profile table wherein the list of users is a subset of the plurality of users (list of users fig. 5, each user profile, Fig. 6, 8, selectively notifying users in the list,

Fig. 13; administrator, Fig. 5; user receiving notification via its terminal screen, paragraphs 83, 103-107, 207).

Claims 1, 8, 15, 22-24 are rejected under 35 U.S.C. § 102(e) as being anticipated by Ruckdashel et al (U.S. 6,038,542).

As to claims 1, 8, 15 and 22-24, Ruckdashel discloses a method, apparatus and program for notification users based on their profile, comprising:

a profile table each one of said plurality of users, (A server includes a scheduling database, which contains a list of users and their properties, e.g., profile table (Fig. 210);

processing and transmitting means enabling an administrator associated with said server to transmit alarm message to the list of users wherein said users have been selected from said profile table, said alarm message being displayed on a screen of a workstation associated with each selected user if said workstation is running; selection means for selecting, in response to a condition or an event, a list of users based on profile information in the profile table wherein the list of users is a subset of the plurality of users (An administrator capable of selecting users list, 303, 313, Fig. 3-4; Users capable of specifying which event to be notified, each of the users capable of specifying notification configuration, Fig. 5, 7; The server reads the users list, accesses users schedule; Fig. 8; The server sends notification to the users whose profile met the criteria, Fig. 9; also see Col. 3, lines 64-Col. 4, lines 67; Col. 6, lines 56-64,; Col. 7, lines 33-59).

Claims 5, 12 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(11) *Response to Argument*

Instead of reiterate Appellant position *in toto*, Examiner addresses the main point of Appellant contention as follow:

Issue I the Drawing Objection is withdrawn

Issue II the Specification's Objection is withdrawn.

Issue III the Rejection under 35 U.S.C. § 112, first paragraph, is withdrawn.

Issue V, rejection to claims 5, 12 and 19 is withdrawn.

Issue VII, Unclear status of Claims rejection.

It is an inadvertently erroneous. Grounds of the rejection are being rewritten to clarify this issue by including claims 1, 8 and 15, therein. Since claims 22-24 depended on claims 1, 8 and 15, and the context of the claims 1, 8 and 15 have readily been included in the claims' final rejection, no new ground of rejection is added.

Remain issues IV-VI and VIII and IX, Applicant argued repetitively that the prior arts of record failed to teach an administrator associated with a server to transmit alarm message to the users who have been selected from the same profile or preference and manual alarm. Applicant's argument is presented in that none of the prior art teaches an administrator associated with a server sending alarm message to a list of user, selected

from profile table. In other words, the claims invention required an administrator sending alarm to a group of user that has similar profile.

Examiner directs board of appeal attention to Stupek Col. 1, lines 63-col. 2, line 15; Col. 5, l. 47-Col. 6, 15, which discloses a network management system capable of transmitting alarm, event notification to a group of managed devices, which their profile are stored in database, e.g., profile table. Including the teaching allowing any user to selected group of list of manage device for receiving event notification based upon event information. Since Stupek also use Java for handling multi-platform in conjunction with SNMP, which is also being used by the claims invention. Examiner therefore, contents that it would have been obvious to one of ordinary skill in the art to expand the used of Stupek by merely modifying roll of user in Stupek to act as a well-know admistrator for sending alarm to all selected users rather than Managed device.

In addition, the rejection under 102(e) over Raffel or Ruckdashel is being clarified and reproduced above. The rejections and citation is self-explanatory, as shown in Raffel Fig. 5-6, 8, 13 and paragraphs 83, 103-107, 207, and in Ruckdashel, 210, Fig. 2; Fig. 3-4; Fig. 5, 7; Fig. 8; Fig. 9; also see Col. 3, lines 64-Col. 4, lines 67; Col. 6, lines 56-64; Col. 7, lines 33-59).

Issue V, Applicant argues, with regard to claims 4, 11, and 18, neither Stupek nor Drala, alone or in combination teaches or suggests an alarm message is automatically sent at the occurrence of a condition or event. Examiner disagreed Stupek clearly states the use of JAVA and instruction editor for this matter, which specially deals with automation feature (Stupek, Col. 14, lines 14-21 and 29-33).

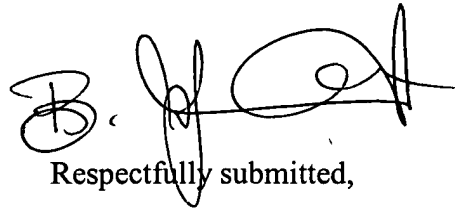
Regard to claims 3, 10, and 17, neither Stupek nor Drala teaches or suggests that alarm messages are written and manually sent by the administrator when necessary.

Examiner content that manually generating alarm is an old process, which is facilitated by an automate event notification. Thus claiming manually generating and sending alarm is clearly back step and unpatentable.

Regarding claims 6, 13 and 20, Applicant alleged that Examiner hindsight reasoning. Examine disagree, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

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For the above reasons, it is believed that the rejections should be sustained.



Respectfully submitted,


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February 22, 2005

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